

Initial Statement of Reasons
Title 13, Division 1, Chapter 1
Article 2.55 – California Ignition Interlock Device Program

The Department of Motor Vehicles (department) proposes to amend Sections 125.12, 125.16, 126.00, 126.02, 127.00, 127.02 and 127.08 in Article 2.55 of Chapter 1, Division 1, Title 13, California Code of Regulations, relating to the California Ignition Interlock Device Program.

Assembly Bill (AB) 520 (Chapter 657; Statutes of 2011) amended Vehicle Code section 13353.3 to authorize a person who has been convicted of a violation of Vehicle Code section 23103, as specified in Vehicle Code section 23103.5, and has no more than two prior alcohol-related offenses, to be granted a restricted driver license when the driver agrees to have an Ignition Interlock Device (IID) installed in each vehicle he or she owns.

Vehicle Code section 23103.5 authorizes a driver, originally charged with violating Vehicle Code section 23152, driving under the influence, to plead guilty to a lesser charge of reckless driving, Vehicle Code section 23103. Although no suspension is imposed for violators convicted of reckless driving, existing Administrative Per Se laws, as specified in Vehicle Code section 13353.3, require a one-year driver license suspension under the provisions of Vehicle Code section 13353.2 for an individual with one or more prior alcohol-related convictions and/or administrative determinations of driving with an alcohol concentration of 0.089% or more.

Upon completion of a 90-day suspension period, Vehicle Code section 13353.3, as amended by AB 520, will allow a driver convicted of reckless driving in satisfaction of an original charge of driving under the influence that has been suspended for one year under Vehicle Code section 13353.2 to be eligible for a restricted driver license. Conditions of restriction include:

- Enrollment in a nine month driving under the influence program;
- Continued satisfactory participation in the driving under the influence program;
- Installment of an IID and submission of a Verification of Installation form DL 920 (REV 11/2010);
- Agreement to maintain the IID pursuant to Vehicle Code section 23575(g),
- Provide proof of financial responsibility; and
- Agreement to pay all driver license reissue fees, optional restriction fees, and all fees associated with the IID program.

Vehicle Code section 13353.3(b)(2)(C)(vii) requires the driver to pay a fee to the department in an amount sufficient to cover the costs of administering these restriction provisions. The department has prepared costing documentation and has determined that a fee of \$40 is sufficient to manage this program.

PROBLEMS THIS AGENCY INTENDS TO ADDRESS:

Current law allows a person guilty of DUI, who also has a prior DUI, the option of having an ignition interlock device installed in his or her vehicle as a condition of being issued a restricted driver license.

A person with a reckless driving violation, who also has a prior DUI, is not afforded the IID option, even though the reckless driving offense is a lower offense. AB 520 corrected this oversight to allow a person, who pleads guilty to a lesser charge of reckless driving, or a “wet reckless,” to participate in the IID program as a condition of being issued a restricted driver license.

Since AB 520 allows for a new type of IID restriction, the department must implement fees for drivers who enter into the IID program. The fees proposed in these regulations will allow the department to recover the fees associated with this process.

BENEFITS ANTICIPATED FROM THE REGULATORY ACTION:

AB 520 ensures similar penalties and restrictions for drivers convicted of similar DUI related offenses.

ALTERNATIVES CONSIDERED

No alternatives were considered in the implementation of the fees provided in the proposed amendments. The department will only be collecting fees to cover the administrative costs of administering the AB 520 provisions.

§ 125.12. Service and Maintenance of Ignition Interlock Devices.

Subsection (a)(1)(A)(i) is amended to add the citation of Vehicle Code section 13353.3(b)(2)(C) as an authority for a driver to participate in the IID program as a condition of being granted a restricted driver license.

Subsections (a)(1)(A)(i) and (ii) are amended to update the revision date of the Verification of Installation, form DL 920 from 7/2010 to 11/2010.

Verification of Installation, form DL 920

No modifications were made to page one of the form DL 920.

Modifications contained on page two of the form DL 920 include:

- The reference to “\$15” when requiring a check or money order to be submitted is deleted and the 11/2010 version requires a check or money order

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“for the appropriate fee” to be submitted. As the form is utilized for multiple types of IID restrictions, the \$15 will only serve to create confusion.

- References to subdivisions (a)(8) and (a)(9) of Vehicle Code section 13352 and Vehicle Code section 13352.1 are removed. Vehicle Code section 13352 has been amended since the form DL 920 was last adopted in regulations.

The 11/2010 revision incorporates all the revisions made to Vehicle Code section 13352 by adding reference to subdivisions (a)(3) and (a)(5).

- Page two (second paragraph) of the form DL 920 adds the words “Vehicle Code sections” prior to citation of 13352(a)(3) or (5). This modification is for clarity to allow readers to know the citation is found in the Vehicle Code.

Subsection (a)(1)(A)(iii) is amended to update the revision date of the Department of Motor Vehicles Ordered Verification of Ignition Interlock, form DL 924 from 7/2010 to 11/2010.

Department of Motor Vehicles Ordered Verification of Ignition Interlock, Form DL 924
No modifications were made to page one of the form DL 924.

Modifications contained on page two of the form DL 924 include:

- The reference to Penal Code section 191.5(b) is added to those convictions where the department orders an IID to be installed.

Subsection (c)(4) is amended to update the revision date of the form DL 920, as specified above.

§ 125.16. Verification of Installation.

Subsection (a) is amended to update the revision date of the form DL 920.

Subsection (b) is amended and divided into two subsections.

Subsection (b)(1) is amended to update the revision date of the form DL 920 and make a non-substantive modification to delete the words “forty-five dollar” when referencing the administrative fee.

Subsection (b)(2) is adopted to require a driver, participating in the IID program pursuant to Vehicle Code section 13353.3, to submit a form DL 920 and a \$40 administrative service fee.

Subsections (c) through (f) are amended to update the revision date of the form DL 920.

§ 126.00. Verification of Installation for Department of Motor Vehicles Required Ignition Interlock Device.

Subsection (b)(1) is amended to update the revision date of the form DL 924 from 7/2010 to 11/2010. Modifications to this form are detailed in page two of this statement of reasons.

§ 126.02. Distribution of Verification of Installation, Form DL 924.

Subsections (a) and (b) are amended to update the revision date of the form DL 924.

§ 127.00. Ignition Interlock Device Restriction.

Subsection (d) is amended to update the revision date of the form DL 924.

Subsection (e) is amended to delete the words “forty five dollars” when identifying the administrative service fee.

§ 127.02. Administrative Fees.

Subsections (a) and (b) are amended to delete the words “forty five dollars” when identifying the administrative service fee.

Subsection (b) also contains a non-substantive amendment to correct the reference to an ignition interlock device.

Subsection (c) is adopted to require a person participating in the IID program pursuant to Vehicle Code section 13353.3(b)(2)(C), to submit a \$40 administrative service fee.

§ 127.08. Reset of Ignition Interlock Restriction Term.

This section is amended to update the revision date of the form DL 924.

ECONOMIC AND FISCAL IMPACT DETERMINATIONS

- Cost Or Savings To Any State Agency: None.
- Other Non-Discretionary Cost or Savings to Local Agencies: None.
- Costs or Savings in Federal Funding to the State: None.
- Cost Impact on Representative Private Persons or Businesses: A driver who has an ignition interlock device installed in his or her vehicle as a condition of being issued a restricted driver license, will be required to submit a fee of \$40. There are no costs to business.
- Effect on Housing Costs: None.
- Local Agency/School District Mandates: The proposed regulatory action will not impose a mandate on local agencies or school districts, or a mandate that requires reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code.
- Small Business Impact: This proposed action will not impact small business.

**DEPARTMENTAL DOCUMENTATION SUPPORTING GOVERNMENT CODE
SECTIONS 11346.2(b)(3) THROUGH (b)(5)**

- Studies, Reports or Documents - Gov. Code Sec. 11346.2(b)(3): No technical, theoretical or empirical studies or reports were relied upon, however, the department relied on the Economic Impact Assessment to evaluate the impact of these regulations on California business, health and welfare workers, worker safety and the state's environment. The department has determined there would be no impact to these entities.
- Reasonable Alternatives and Department's Response – Gov. Code Sec. 11346.2(b)(4)(A): No alternatives were presented that would be as effective.
- Reasonable Alternatives That Would Lessen Any Adverse Impact on Small Business – Gov. Code Sec. 11346.2(b)(4)(B): No alternatives were presented that would lessen any adverse impact on small business.
- Evidence Supporting Determination of No Significant Adverse Economic Impact on Business – Gov. Code Sec. 11346.2(b)(5): This regulation will not have an adverse economic impact on business. This proposed action provides form requirements and implements fees for the IID program.